

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

TRAVELODGE HOTELS, INC.,	)	CASE NO. 1:01-CV-00 784
)	
Plaintiff,	)	JUDGE WEBER
	)	MAGISTRATE JUDGE TIMOTHY S.
v.	)	BLACK
)	
GOPAL GOVAN,)	
)	
Defendant/Third-Party	)	<u>TRAVELODGE HOTELS, INC.'S MOTION</u>
Plaintiff,	)	<u>TO SUPPLEMENT JUDGMENT WITH</u>
	)	<u>ATTORNEYS' FEES AND COSTS</u>
v.	)	<u>INCURRED ON APPEAL</u>
)	
CINCINNATI TRAVELODGE,)	
)	
)	
)	
Third-Party Defendant.)	

Plaintiff Travelodge Hotels, Inc. ("THI") respectfully moves the Court to supplement its January 8, 2004 Order (ECF #65) – in which it granted THI's motion for summary judgment against Gopal Govan ("Govan") and held that THI was entitled to recover its attorneys' fees and costs – with an additional award of attorneys' fees and expenses incurred by THI in successfully defending against Govan's appeal of the final judgment entered in this matter, which fees and costs total \$54,290.00.

A Memorandum in Support of this Motion and the evidence detailing the amount of attorneys' fees and costs THI is seeking is attached hereto and incorporated herein by reference.

Respectfully submitted,

OF COUNSEL:

HAHN LOESER & PARKS LLP

/s/ Steven A. Goldfarb
Steven A. Goldfarb (0030186)
sagoldfarb@hahnlaw.com
Rose Marie Fiore (0065243)
rmfiore@hahnlaw.com

3300 BP Tower
200 Public Square
Cleveland, Ohio 44114-2301
(216) 274-2347

Attorneys for Plaintiff Travelodge Hotels, Inc.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

TRAVELODGE HOTELS, INC.,	)	CASE NO. 1:01-CV-00 784
)	
Plaintiff,	)	JUDGE WEBER
	)	MAGISTRATE JUDGE TIMOTHY S.
v.	)	BLACK
)	
GOPAL GOVAN,)	
)	
Defendant/Third-Party	)	<u>MEMORANDUM IN SUPPORT OF</u>
Plaintiff,	)	<u>TRAVELODGE HOTELS, INC.'S MOTION</u>
	)	<u>TO SUPPLEMENT JUDGMENT WITH</u>
v.	)	<u>ATTORNEYS' FEES AND COSTS</u>
	)	<u>INCURRED ON APPEAL</u>
CINCINNATI TRAVELODGE,)	
)	
)	
Third-Party Defendant.)	

On January 8, 2004, the Court granted Plaintiff Travelodge Hotels, Inc.'s ("THI") motion for summary judgment against Gopal Govan ("Govan") and found that THI was entitled to recover its reasonable attorneys' fees and costs pursuant to the License Agreement between THI and Govan.¹ (ECF #65). The Court subsequently awarded attorneys' fees in the amount of \$64,645.00 and costs in the amount of \$4,163.57. (ECF #97). Govan appealed this Court's ruling relating to liquidated damages to the United States Court of Appeals for the Sixth Circuit. On December 15, 2005, the Sixth Circuit affirmed this Court's judgment in favor of THI. As the prevailing party on appeal, THI seeks to recover the additional attorneys' fees and expenses incurred in successfully defending against Govan's appeal, which total \$54,290.00.

¹ The License Agreement provides that the "non-prevailing party will pay all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party to enforce this [License] Agreement or collect amounts owed under this [License] Agreement." See License Agreement, Section 17.4.

LAW AND ARGUMENT

I. PLAINTIFF IS ENTITLED TO A SUPPLEMENTAL AWARD OF ATTORNEYS' FEES AND COSTS REASONABLY INCURRED ON APPEAL.

It is well-settled that where a contract provides for the recovery of reasonable attorneys' fees, the prevailing party is entitled to an award of additional fees incurred on appeal. *See, e.g., Chef's Fried Chicken, Inc. v. Bull McWood, Inc.*, 459 So.2d 1371 (La. Ct. App. 3d Cir. 1984) (holding that franchisee was entitled recover attorneys' fees and costs incurred in successful appeal where franchise contract provided that unsuccessful party in action arising out of franchise contract would pay successful party's reasonable attorneys' fees).

As the "prevailing party" in this matter, THI is entitled to a supplemental award of the attorneys' fees and costs incurred on appeal because the License Agreement specifically provides that the "non-prevailing party will pay *all* costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party to enforce this [License] Agreement...." *See* License Agreement, Section 17.4 (emphasis added). Moreover, this Court has already determined that the attorneys' fee provision in the License Agreement is valid and enforceable. (*See*, ECF #65 at 22.)

II. THE ATTORNEYS' FEES AND COSTS INCURRED ON APPEAL WERE REASONABLE AND NECESSARY.

The attorneys' fees and costs incurred on appeal were reasonable and necessary to preserve the judgment in THI's favor. Evidence detailing the supplemental attorneys' fees and costs incurred by THI on appeal is set forth in the Affidavit of Steven A. Goldfarb, which is attached hereto as Exhibit A and incorporated herein by reference.

CONCLUSION

Based on the foregoing, THI respectfully requests that the Court award THI its attorneys' fees and costs incurred on appeal, in the amount of \$54,290.00, and issue a supplemental judgment entry reflecting the award.

Respectfully submitted,

OF COUNSEL:

HAHN LOESER & PARKS LLP

/s/ Steven A. Goldfarb
Steven A. Goldfarb (0030186)
sagoldfarb@hahnlaw.com
Rose Marie Fiore (0065243)
rmfiore@hahnlaw.com

3300 BP Tower
200 Public Square
Cleveland, Ohio 44114-2301
(216) 274-2347

Attorneys for Plaintiff Travelodge Hotels, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of December 2005, a copy of the foregoing Travelodge Hotels, Inc.'s Motion To Supplement Judgment With Attorneys' Fees and Costs Incurred on Appeal with Memorandum in Support was filed electronically with the Court. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Steven A. Goldfarb
One of the Attorneys for Travelodge Hotels, Inc.